

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:12-cr-00004-APG-EJY

Plaintiff,

ORDER

v.

DAVID CAMEZ,

Defendant.

Pending before the Court is Defendant's Letter to the Court, which is interpreted as a Motion to Return Funds (ECF No. 1720). In his letter, the Defendant, David Camez, states he owes restitution¹ he agreed to pay, but that deductions from his prisoner trust account by the Bureau of Prisons leaves him with insufficient money to buy things from the commissary. *Id.* Defendant explains the money in his account was from family members who worked hard to send him what they could, as well as from a stimulus check received from the government. *Id.* Defendant states that upon his release from prison he will be able to make more substantial payments to meet his restitution obligations, but for now he requests the government return \$1,871 taken from his trust account. *Id.*

Defendant's letter does not identify any federally protected right that he claims has been violated. Despite this failure, Defendant's letter more fundamentally fails to state a claim upon which the Court can proceed because Defendant's claim must be brought in a habeas petition filed under 28 U.S.C. § 2241. It is a habeas petition under § 2241 that is the proper vehicle through which a federal prisoner challenges the manner or the execution of a sentence. *See Hernandez v. Campbell*, 204 F.3d 861, 864 (9th Cir. 2000). Here, Defendant challenges the Bureau of Prison's authority to withdraw large sums as restitution payments, which is precisely an attack on the manner and execution of his sentence. Therefore, Defendant must bring this claim under 28 U.S.C. § 2241.

¹ See ECF No. 1540 ordering restitution in the amount of "\$50,893,166.35 jointly and severally with all co-defendants in this case ... [and related cases], with interest It is recommended restitution be paid at a rate of not less than \$25.00 per quarter during incarceration."

1 For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff's request in his letter,
2 treated as a Motion for Return of Funds (ECF No. 1720), is DENIED without prejudice.

3 IT IS FURTHER ORDERED that the Clerk of Court **shall** send to Defendant the instructions
4 and form related to filing a habeas corpus petition under 28 U.S.C. § 2241.

5 Dated this 1st day of September, 2021.

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9 ELAYNA J. YOUCHAK
UNITED STATES MAGISTRATE JUDGE
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